IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.1023 of 2006 (O&M)
Date of decision: September 12, 2006.

Jagtar Singh

...**Petitioner(s)**

v.

Harbans Singh

...**Respondent(s)**

Present: Shri Ramesh Sharma, Advocate for the petitioner.

Shri Joginder Sharma, Advocate for the respondent.

Surya Kant, J. (Oral)

C.M. No.18059-CII of 2006

As prayed for, zimni orders passed by the Executing Court from time to time are taken on record. C.M. stands disposed of.

Re: Petition

This revision petition has been preferred against the order dated 13.8.2005 passed by the Executing Court whereby the warrant of possession, earlier issued by the said court, has been recalled.

Shorn of the details, it may be mentioned here that the petitioner is the decree holder whose suit for possession by way of specific performance of the agreement has been decreed by the civil court. For execution of the said decree, he has initiated the execution proceedings in which warrant of possession was issued against the judgment debtor. However, Smt. Surjit Kaur, widow of Baldev Singh, and other legal

representatives of said Baldev Singh have filed objections, inter-alia, alleging that they are co-sharers in joint possession of the total land measuring 35 kanal 7 marlas with the judgment debtor and unless the joint land is partitioned, no exclusive possession can be delivered to the decree holder. Upon consideration of the aforesaid objections, the Executing Court has recalled the warrant of possession earlier issued by it.

Aggrieved, the decree holder has filed this revision petition.

Learned Counsel for the petitioner contends that even if the physical possession of the land qua the share of judgment debtor (Harbans Singh) cannot be delivered, yet the Executing Court ought to have executed the warrant of possession for the limited purpose of delivering symbolic possession of the said share in favour of the decree holder. Learned Counsel for the respondent has no objection against the grant of aforesaid relief.

After hearing Learned Counsel for the parties and in view of the aforesaid stand taken by Learned Counsel for the respondent, this revision petition is disposed of with a direction to the Executing Court to proceed with the execution proceedings and to order execution of the decree to the extent that the symbolic possession of the subject land is delivered to the petitioner-decree holder. Further, the Executing Court shall also expedite disposal of the objections filed by Smt. Surjit Kaur, widow of Baldev Singh, and shall make an endeavour to dispose of the same as early as possible, preferably within six months.

With these directions, this revision petition is disposed of.

September 12, 2006. [**Surya Kant**]
kadyan **Judge**